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Paper 16
9 May 2008

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,620

KING PHARMACEUTICALS RESEARCH & DEVELOPMENT, INC.
(5,070,877),
Junior Party,

v.

ITEM DEVELOPMENT AB
(08/442,385),
Senior Party.

Before: SCHAFER, LEE, and TORCZON, *Administrative Patent Judges*.

TORCZON, *Administrative Patent Judge*.

JUDGMENT
Bd.R. 127
REQUESTED

- 1 Senior party Item states that it expressly abandons its involved
- 2 application (Paper 14). By operation of rule, express abandonment of an
- 3 involved application is treated as a request for adverse judgment. 37 C.F.R.
- 4 § 41.127(b)(1).
- 5 Accordingly, it is—

1 ORDERED that judgment be entered against senior party Item for
2 count 1 (Paper 1 at 3);

3 FURTHER ORDERED that claims 56-59 of Item's involved
4 application be FINALLY REFUSED, 35 U.S.C. 135(a); and

5 FURTHER ORDERED that a copy of this judgment be entered in the
6 administrative records of the involved patent and application.

cc:

Thomas E. Friebel and Jennifer J. Chedda, Jones Day, New York City, New
York for King Pharmaceuticals Research & Development, Inc.

John Scheibeler and Jean Shimotake, White & Case, New York City, New
York for Item Development Aktiebolag